

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION**

Sandra Ritchie,)	Civil Action No. 2:23-cv-1093
)	
Plaintiff,)	
)	
vs.)	
)	
)	NOTICE OF REMOVAL
Route 41 Pizza, LLC,)	
)	
Defendant.)	
)	

TO: UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF WISCONSIN

PLEASE TAKE NOTICE that Route 41 Pizza, LLC (“Defendant”), by and through its undersigned counsel, removes this action from the Fond du Lac County Circuit Court to the United States District Court for the Eastern District of Wisconsin, Milwaukee Division.

I. NATURE OF ACTION

1. On July 24, 2023, Plaintiff Sandra Ritchie (“Plaintiff”) filed a Class Action Complaint (“Complaint”) in the Fond du Lac County Circuit Court, Civil Action No. 2023-CV-000298, against Defendant for alleged unpaid overtime under Wis. Stat. Chapters 103 and 109 and Wis. Admin. Code Ch. DWD 274 on behalf of herself and a putative class.

II. NOTICE OF REMOVAL IS TIMELY

2. According to the Affidavit of Service filed in the State Court proceedings, Defendant’s registered agent was served with a copy of the Complaint via process server on July 28, 2023.

3. This Notice of Removal is timely as it was filed within thirty (30) days of service of process on Defendant. *See* 28 U.S.C. § 1446(b) (“The notice of removal of a civil action or

proceeding shall be filed within thirty (30) days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based”).

III. FEDERAL JURISDICTION EXISTS

4. Pursuant to 28 U.S.C. § 1441(a), cases that are subject to removal include “any civil action brought in a state court of which the District Courts of the United States have original jurisdiction.”

5. The District Court has diversity jurisdiction under 28 U.S.C. § 1332(a) because this is a civil action between citizens of different states and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

6. Plaintiff is a citizen and resident of Fond du Lac County, Wisconsin. (Compl. ¶ 6).

7. Defendant is a limited liability company (“LLC”). For purposes of diversity jurisdiction, the citizenship of an LLC is determined by the citizenship of its members. *See Cosgrove v. Bartolotta*, 150 F.3d 729, 731 (7th Cir. 1998).

8. The members of Route 41 Pizza, LLC are (1) Susan Graves; and (2) Susan L. Graves 2020 Irrevocable Stock Trust.

9. Susan Graves is a citizen and resident of Texas.

10. A trust’s citizenship is determined by that of its trustee. *See White Pearl Inversiones S.A. v. Cemusa, Inc.*, 647 F.3d 684, 686 (7th Cir. 2011). The trustee of the Susan L. Graves 2020 Irrevocable Stock Trust is Claudia Lenz, who is a citizen and resident of Minnesota.

11. Therefore, complete diversity exists in this matter.

12. In the Complaint, Plaintiff seeks alleged unpaid overtime for two years, civil penalties (up to 50% of the alleged unpaid wages), costs, disbursement, expert witness fees,

prejudgment and post judgment interest, and attorneys' fees on behalf of herself and a putative class. (Compl. Request for Relief). Therefore, the amount in controversy exceeds \$75,000.

IV. REMOVAL TO THIS DISTRICT IS PROPER

13. Venue is proper in the United States District Court for the Eastern District of Wisconsin, because the Fond du Lac Circuit Court sits within this federal district. *See* 28 U.S.C. §§ 1391(a), 1446(a).

V. REMOVAL REQUIREMENTS

14. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings and orders served to date upon Defendant in this matter are attached as **Exhibit A**.

15. This Notice of Removal will promptly be served on Plaintiff and notice of its filing will be promptly filed with the Clerk of Court for the Fond du Lac Circuit Court pursuant to 28 U.S.C. § 1446(d).

VI. RESERVATION OF RIGHTS

16. Defendant reserves any and all rights to assert any defenses to Plaintiff's Complaint, including the right to file dispositive motions pursuant to Rule 12 of the Federal Rules of Civil Procedure.

17. Defendant reserves the right to amend or supplement this Notice of Removal.

Respectfully submitted,

By: /s/ Craig R. Annunziata
Attorney for Defendant

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August 17, 2023

CERTIFICATE OF SERVICE

The undersigned certifies that on August 17, 2023, he caused the foregoing to be electronically filed with the Clerk of the U.S. District Court, using the Court's CM/ECF system, and was served via email upon the attorneys of record:

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